

## **REMARKS**

Claims 1-6, 18-23, 35-40, 52-57 and 70-82 are pending in the present application.

Claims 83-109 have been withdrawn as being subject to restriction and/or election requirement. Applicants respectfully request reconsideration of the pending claims in light of the following remarks.

### **Election/Restrictions**

Claims 83-109 have been withdrawn as being allegedly directed to an invention that is independent or distinct from the invention originally claimed. Applicants respectfully submit the additional claims do not present an unreasonable search burden, and thus traverse the restriction requirement

### **Reply to Examiner's Response to Arguments**

Since the Examiner has maintained the prior rejections and has provided arguments in support of this position, Applicant will address the Examiner's response first.

The Examiner asserted that "features upon which the Examiner relies ... are not recited in the rejected claim(s)." (See Office Action: page 14, lines 8-11.) Applicants respectfully disagree. As presented on page 14 of the reply dated April 22, 2007, Applicants reiterate herein that neither Dailey nor Hamalainen teach or suggest, either individually or in combination, at least:

"avoiding a race condition between the service origination process and paging by configuring a communications manager to not respond immediately to the floor-control request," as recited in claim 1 (emphasis added).

Dailey teaches a wireless push to talk (PPT) communication system wherein

"the inability to perform handoffs is addressed by conducting the group call over a common traffic channel, preferably from all of the transceiver units of the system. Because the group call is transmitted over a common traffic channel in several cells, a terminal can move from a cell served by one transceiver unit to another cell served by another transceiver unit without losing the group call and without requiring a handoff. Preferably, the transceiver units of the system are sufficiently synchronized to prevent undue interface among the transceiver units.

Because a group call is broadcast in several cells simultaneously on a common channel, there is no requirement that the system page the terminals of the group. This can reduce overhead involved in setting up a group call, as group calls can be setup by simply receiving a predetermined type of call origination message from a terminal of a group, and responsively transmitting a group call traffic channel designation to other terminals of the group.

(See Dailey: col. 9, lines 1-19; emphasis added.)

Accordingly, paging is not used in the system taught by Dailey. In fact, Dailey actually teaches away from paging other transceivers because "it can reduce overhead in setting up a group call."

Hamalaiaen fails to cure the deficiencies in Dailey in this respect, as Hamalaiaen is silent with respect to "avoiding a race condition between the service origination process and paging...", as recited in claim 1.

The Examiner subsequently asserted that "collision reads on the broadest reasonable interpretation in light of the specification of 'race condition'." (See Office Action: page 14, lines 14-16.) Applicants respectfully disagree, and submit that the Examiner is improperly interpreting the term "race condition." A race condition generally relates to the concept of different expected signals which may be dependent upon a common expected process. The result of the process may be unexpectedly and/or critically dependent on the sequence or timing of the expected signals. However, Hamalaiaen defines collisions as a problem where "the uplink and downlink

transmissions overlap.” (See Hamalainen: col. 2, lines 33-36.) Generally speaking, collisions are the result of signals attempting to access a given resource at the same time.

Because Dailey and Hamalainen fail to teach all of the features of claim 1, Applicants respectfully request that the rejection be withdrawn. Independent claims 18, 35, 52, and 70 are allowable at least for similar reasons presented above for claim 1.

### **35 U.S.C. 103(a) Rejections**

Claims 1, 3, 18, 20, 35, 37, 52, 53, and 70 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Dailey (U.S. Patent No. 6,449,491) in view of Hamalainen (U.S. Patent No. 5,966,378). Claims 2, 19, 36, 53, 76 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey in view of Hamalainen, and further in view of Phillips et al (US00587302A). Claims 4, 5, 21, 22, 38, 39, 55, 56, 78, and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey in view of Hamalainen, and further in view of Kumar et al. (US006507572B1). Claims 6, 23, 40, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey in view of Hamalainen, and further in view of Wang et al. (US20020055364A1). Claim 80 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dailey in view of Hamalainen, and further in view of what was well known in the art (US00587302A). Claims 81 and 82 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Dailey, Hamalainen, and what was well known in the art, and further in view of Wang.

Since the Examiner has maintained the rejection of claims 1-6, 18-23, 35-40, 52-57, and 70-82 under §103 as noted above, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that

Applicant has not conceded any of the previous positions relative to the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the prior response without a literal rendition of those arguments in this response

### **Dependent Claims**

Applicants respectfully submit that the Phillips, Kumar, and Wang references, as applied, at least to fail cure the above-noted deficiencies of Dailey and Hamalainen in relation to independent claims 1, 18, 35, 52, and 70. Accordingly, dependent claims 2, 4-6, 19, 21-23, 36, 38, 39, 40, 53, 55, 56, 57, 76, 78-82, which depend directly or ultimately from, and include all the subject matter of, claims 1, 18, 35, 52, and 70, respectively, should be allowed for at least the same reasons presented above regarding the independent claims as well as the additionally recited features found in the claims. Because independent claims 1, 18, 35, 52, and 70 are believed to be allowable, Applicants have not argued or otherwise relied on independent patentability of dependent claims, but reserves the right to do so in this or any subsequent proceeding.

Moreover, Applicants note that the Examiner took Official Notice in the rejections of claims 80-82, asserting that “bundling in an access channel capsule was well known in the art at the time of the invention.” (See Office Action: page 13, lines 1-2.) Applicants traverse the Examiner’s taking of Official Notice, and submit that this feature is not “well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known.” as required by M.P.E.P. §2144.02.

Accordingly, Applicants traverse the taking of Official Notice and request that Examiner either provide an affidavit in support of this assertion, provide a valid prior art reference (if one exists), or withdraw the rejection.

### Summary

Since the Examiner has maintained his rejection of claims 1-6, 18-23, 35-40, 52-57, and 70-82 under 35 U.S.C. § 103 as noted above, Applicant once again traverses these rejections. Applicant expressly maintains the reasons from the prior responses to clearly indicate on the record that Applicant has not conceded any of the previous positions relative the maintained rejections. For brevity, Applicant expressly incorporates the prior arguments presented in the April 22, 2007 response without a literal rendition of those arguments in this response.

For at least the foregoing reasons and the reasons set forth in Applicant's response of April 22, 2007, it is respectfully submitted that claims 1, 18, 35, 52, and 70 are distinguishable over the applied art. The remaining dependent claims are allowable at least by virtue of their dependency on the above-identified independent claims. See MPEP § 2143.01. Moreover, these claims recite additional subject matter, which is not suggested by the documents taken either alone or in combination.

### CONCLUSION

In light of the amendments contained herein, Applicants submit that the application is in condition for allowance, for which early action is requested.

Please charge any fees or overpayments that may be due with this response to Deposit Account No. 17-0026.

Respectfully submitted,

Dated January 18, 2008

By: /Raphael Freiwirth /  
Raphael Freiwirth  
Reg. No. 52,918  
(858) 651-0777

QUALCOMM Incorporated  
Attn: Patent Department  
5775 Morehouse Drive  
San Diego, California 92121-1714  
Telephone: (858) 658-5787  
Facsimile: (858) 658-2502